



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 9, 1998

Mr. Jonathan Steinberg
Assistant General Counsel
Texas Water Development Board
P.O. Box 13231
Austin, Texas 78711-3231

OR98-1628

Dear Mr. Steinberg:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 116537.

The Texas Water Development Board (the "board") received an open records request for records pertaining to "water problems in Quemado, Maverick County Texas." You have submitted to this office as responsive to the request three intra-office memoranda, portions of which you contend are excepted from required public disclosure pursuant to section 552.107(1) of the Government Code.

The board received the open records request on April 8, 1998. You requested a decision from this office on April 23, 1998. Consequently, you failed to request a decision within the ten business days required by section 552.301(a) of the Government Code.¹

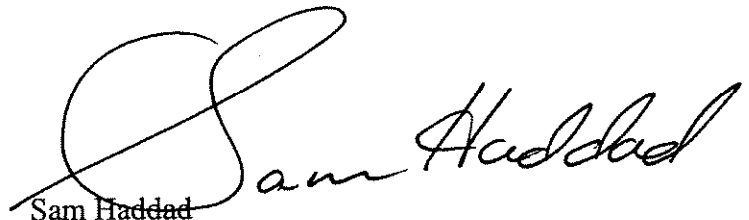
Section 552.301(a) requires a governmental body to release requested information or to request a decision from the attorney general within ten business days of receiving a request for information the governmental body wishes to withhold. When a governmental body fails to request a decision within ten business days of receiving a request for information, the information at issue is presumed public. Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. See *Hancock*, at 381.

¹This office has confirmed with the board's Department of Human Resources that the board was open for business on Good Friday, April 10, 1998.

You have not shown compelling reasons why the information at issue should not be released.² In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the information. *See also* Gov't Code § 552.352 (distribution of confidential information is criminal offense).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Sam Haddad". The signature is fluid and cursive, with a large loop at the beginning.

Sam Haddad
Assistant Attorney General
Open Records Division

SH/RWP/mjc

Ref.: ID# 116537

Enclosures: Submitted documents

cc: Ms. Audrey Fitzsimmons
Legal Assistant
Thompson & Knight, P.C.
1200 San Jacinto Center
98 San Jacinto Boulevard
Austin, Texas 78701
(w/o enclosures)

²See Open Records Decision No. 630 (1994) (mere fact that information would otherwise be protected under attorney-client privilege not "compelling" reason for non-disclosure where ten-day violation occurs).